

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	NO. 4:12CR252
	§	Judge Crone
ARMANDO IBARRA (5)	§	
a/k/a Fat Boy	§	

NOTICE of 404(b) EVIDENCE

The United States of America, by and through its undersigned Assistant United States Attorney, files this notice and would show the Court the following:

Pursuant to Federal Rule of Evidence 404(b), the United States will seek to introduce a prior felony narcotics conviction¹ of defendant Armando Ibarra during the United States' case-in-chief of the trial of this case. The conviction is for Unlawful Possession with Intent to Deliver a Controlled Substance in Case Number F-0825369-L in Criminal District Court #5 in Dallas County, Texas. The Judgment of Conviction was entered on December 15, 2009. Defendant Ibarra was sentenced to 5 years imprisonment.

The Fifth Circuit routinely allows felony narcotics convictions to be admitted as 404(b) evidence in drug conspiracy trials. *E.g., United States v. Beechum*, 582 F.2d 898 (5th Cir. 1978). The mere entry of a not guilty plea in a conspiracy case raises the issue of intent sufficiently to justify the admissibility of extrinsic offense evidence. *E.g., United States v. Bermea*, 30 F.3d 1539, 1562 (5th Cir. 1994). In *United States v. Broussard*, 80

¹ On July 25, 2013, the United States included this conviction in a written notice of sentence enhancement.

F.3d 1025, 1039 (5th Cir. 1996), the Fifth Circuit Court of Appeals found that prior drug convictions are highly probative. *See also, Bermea, supra* at 1562 (noting that in drug offense cases courts frequently find extrinsic drug offense evidence admissible) and *United States v. Harris*, 932 F.2d 1529, 1534 (5th Cir. 1991) (holding that proof of prior drug activities is more probative than prejudicial).

Respectfully submitted,

JOHN M. BALES
UNITED STATES ATTORNEY

/s/

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CERTIFICATE OF SERVICE

I hereby certify a true and correct copy of the foregoing notice was served by electronic filing by CM/ECF to defense counsel on this 30th day of July, 2014.

/s/

G. R. JACKSON